

## REMARKS

The following remarks are submitted to address the above amendments and issues raised in the Official Action mailed May 9, 2005.

Applicant respectfully submits herewith a request for a two month extension of time in which to respond to the Official Action mailed May 9, 2005, to extend the period for filing to expire on October 11, 2005.

Claims 1-30 are pending in this application. Claims 11-15 and 26-30 stand allowed. Claims 6-10 and 21-25 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 1, 5, and 16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,137,219 to Morey. Claims 2-4 and 17-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Morey '219.

These amendments are made merely to clarify the subject matter of this application. No new matter has been added. Support for requested amendments can be found in the original claims and throughout the present specification and drawings. Applicant respectfully requests consideration of the application in light of the above amendments and the following remarks.

### **Claims 11-15 and 26-30 – Allowed**

Claims 11-15 and 26-30 are allowed.

### **Claims 6-10 and 21-25 – Allowable Subject Matter**

The Official Action states that claims 6-10 and 21-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant has rewritten claims 6 and 21 herein in independent form including all of the limitations of the base claim and any intervening claims. Claims 7-10 each depend directly from

claim 6, and claims 22-25 each depend directly from claim 21. Accordingly, the Office is respectfully requested to withdraw the objections to claims 6-10 and 21-25 as being dependent upon a rejected base claim.

**Claims 1, 5, and 16 — 35 USC § 102(b)**

The rejections of claims 1, 5, and 16 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,137,219 to Morey are respectfully traversed.

Claim 1, as amended herein, claims “[a] wood chipper safety device, comprising: a first elongated structure *attached to an outside of a top of an infeed chute* of a wood chipper, wherein the first elongated structure is *movable radially inward towards an opening of the infeed chute* between a plurality of positions; and an actuator operably connected to the first elongated structure, the actuator having a plurality of operable positions corresponding to the plurality of positions of the first elongated structure.” (Claim 1, emphasis added.)

Claim 16, as amended herein, claims “[a] waste reducing device having a powered feed system, a powered cutting system, and an infeed chute, the waste reducing device comprising: a first elongated structure *attached to an outside of a top of the infeed chute*, wherein the first elongated structure is *movable radially inward towards an opening of the infeed chute* between a plurality of positions; and an actuator operably connected to the first elongated structure, the actuator having a plurality of operable positions corresponding to the plurality of positions of the first elongated structure.” (Claim 16, emphasis added.)

The Official Action states that Morey ‘219 discloses the use of elongated structure 84 to control a feed system in a wood chipper for safety purposes. (Official Action, p. 2.)

Morey ‘219 discloses a wood chipper that may include a manual lever 84 having a generally inverted U-shaped configuration mounted adjacent the inlet opening of the infeed chute on pivot pins 86 at the lower ends of its opposite legs (at the bottom of the infeed chute opening). Pushing and pulling of lever 84 operates a control valve for stopping or reversing the direction of

hydraulic fluid to motor 60, enabling infeeding wood to be stopped or backed out as desired, and serves a safety function. (Morey '219, Abstract; col. 8, lines 35-47; Fig. 3.) Nowhere does Morey '219 disclose "a first elongated structure *attached to an outside of a top of an infeed chute* of a wood chipper, wherein the first elongated structure is *movable radially inward towards an opening of the infeed chute*" as in claims 1 and 16 of the present invention.

In claims 1 and 16, the first elongated structure is positioned relative to the infeed chute such that an operator caught in the feed or cutting systems, especially one falling with a backwards motion, may easily grasp the first elongated structure and pull vertically downwards and/or radially inward towards the opening of the infeed chute, stopping the motive operation of the wood chipper. (Present Specification, para. 14.) The ability to pull the first elongated structure in this manner as an emergency/safety maneuver is facilitated by attachment of the first elongated structure to the outside top of the infeed chute. In contrast, Morey '219 discloses lever 84 attached at the *bottom* of the infeed chute and movable only *outwardly away* from the infeed chute opening, whether the lever 84 is pushed or pulled. As a result, Morey '219 fails to disclose each and every element of, and thus does not anticipate, claims 1 and 16.

Claim 5 depends from claim 1. Accordingly, claim 5 is likewise not anticipated by Morey '219.

For all of these reasons, the Office is respectfully requested to withdraw the rejections of claims 1, 5, and 16 under 35 USC § 102(b).

**Claims 2-4 and 17-20 — 35 USC § 103(a)**

The rejections of claims 2-4 and 17-20 under 35 U.S.C. § 103(a) as being unpatentable over Morey '219 are respectfully traversed.

Claim 1, as amended herein, claims "[a] wood chipper safety device, comprising: a first elongated structure *attached to an outside of a top of an infeed chute* of a wood chipper, wherein the first elongated structure is *movable radially inward towards an opening of the infeed chute*

between a plurality of positions; and an actuator operably connected to the first elongated structure, the actuator having a plurality of operable positions corresponding to the plurality of positions of the first elongated structure.” (Claim 1, emphasis added.)

Claim 16, as amended herein, claims “[a] waste reducing device having a powered feed system, a powered cutting system, and an infeed chute, the waste reducing device comprising: a first elongated structure *attached to an outside of a top of the infeed chute*, wherein the first elongated structure is *movable radially inward towards an opening of the infeed chute* between a plurality of positions; and an actuator operably connected to the first elongated structure, the actuator having a plurality of operable positions corresponding to the plurality of positions of the first elongated structure.” (Claim 16, emphasis added.)

The Official Action states that the limitations of claims 2-4 and 17-20 would have been obvious design choices over the basic apparatus of Morey ‘219; that, for example, controlling both the feed assembly and the cutting assembly would have been obvious once it was known to control the feed assembly as in the patent. (Official Action, pp. 2-3.)

As discussed herein, Morey ‘219 fails to disclose “a first elongated structure *attached to an outside of a top of an infeed chute* of a wood chipper, wherein the first elongated structure is *movable radially inward towards an opening of the infeed chute*” as in claims 1 and 16. As a result, Morey ‘219 fails to disclose each and every element of claims 1 and 16. Moreover, Morey ‘219 discloses lever 84 attached at the *bottom* of the infeed chute and, whether the lever 84 is pushed or pulled, it is movable only *outwardly away* from the infeed chute opening. Thus, Morey ‘219 teaches away from the positioning and movement of the first elongated structure as in claims 1 and 16 of the present invention. Consequently, the first elongated structure as claimed in claims 1 and 16 would not have been an obvious design choice of the basic apparatus taught by Morey ‘219.

Claims 2-4 depend from claim 1, and claims 17-20 depend from claim 16. Therefore, claims 2-4 and 17-20 would likewise not have been obvious over Morey ‘219.

For all of these reasons, the Office is respectfully requested to withdraw the rejections of claims 2-4 and 17-20 under 35 USC § 103(a).

**Conclusion**

Applicant submits that a full and complete response has been made herein to the Official Action and, as such, all pending claims in this application are now in condition for allowance. Therefore, Applicant respectfully requests early consideration of the present application, entry of all amendments herein requested, withdrawal of all rejections, and allowance of all pending claims.

The Office is respectfully invited to contact J. Michael Boggs at (336) 747-7536, to discuss any matter relating to this application.

Respectfully submitted,

10/11/05  
Date

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